

FINAL STATEMENT OF REASONS

Amendments to CCR Sections 588.1 and 588.2 Pertaining to the Participation of Contracting Agencies in Risk Pools

Update of Initial Statement Of Reasons: There have been no changes in the applicable laws or facts, or to the effect of the proposed amendments to Sections 588.1 and 588.2 of the risk pool regulations, from those described in the Initial Statement of Reasons.

Local Mandate Determination: The proposed amendments do not impose any mandate on local agencies or school districts.

Summary And Response To Comments Received During The Public Notice Period Of December 17, 2008 Through February 16, 2009: The Regulations Coordinator received two comments regarding the proposed amendments to Sections 588.1 and 588.2 during the comment period for the proposed regulatory action which closed at 5 p.m. on February 16, 2009. Copies of these comments, along with copies of CalPERS' written responses, are included as part of the rulemaking file.

The first comment from Minter Field Airport District sought clarification about existing risk pool requirements and the cost of mandated risk pool benefits established by Government Code section 20480. CalPERS staff reviewed the comment and responded that an agency that joins a risk pool is required to add the mandated benefits for employees. In addition, the response explained that the amendments to the regulations clarify that the mandated employee benefits not already offered by an employer to its employees will become available to employees only when the employer's contributions to the risk pool reflect the increased costs of those benefits. This comment sought clarification of existing regulations, but did not suggest any changes to the proposed amendments.

The second comment from the San Juan Water District indicated the agency's support of the amendments to the risk pool regulations, but suggested that Section 588.2 be further amended to ensure that all existing risk pool agencies receive notice of any CalPERS Board hearing on whether an employer would be permitted to join a pool. CalPERS staff responded that such a change would not be necessary because once a hearing is scheduled by the Board, public notice is required by law. In addition, the commenter suggested that CalPERS consider adopting reasonable standards to ensure against increases in employer costs due to pension "spiking". CalPERS staff responded that employers who contract for more generous benefits have always and will continue to be responsible for such higher benefit costs through charges to their own "side funds" and surcharges. The response also noted that the standards suggested by the commenter are based on the limitations already contained in the Public Employees' Retirement Law. This comment supported the proposed amendments and suggested unrelated changes. Staff found no need for the suggested

changes and recommended to the CalPERS Board that no changes to the proposed amendments be made as a result of the two comments.

Summary And Response To Comments Received At The Public Hearings On March 17, 2009: CalPERS received no comments during the public hearing held before the Benefits and Program Administration Committee on March 17, 2009

Alternatives Determination: CalPERS has determined that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.